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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment delivered on: 19th February, 2013*

\+ **CM (M) 196/2013**

QUMARUL HASAN & ANR ..... Petitioners
Through: Mr. Firoz Alam, Adv.

versus

THE STATE ..... Respondent
Through: NEMO.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Instant petition has been filed against the order dated 09.01.2013, whereby, ld. Tribunal has rejected his application u/s 151 CPC for releasing the amount which has been directed to keep in FDR vide award dated 16.07.2011.

2. It is stated in the instant petition that petitioners are residing at C-160/3, Shahin Bagh, Thokar No. 8, Abul Fazal Enclave, Jamia Nagar, New Delhi – 110025 for the last two years as a tenant of Mohammad Ahsaan and paying a rent of Rs.4,000/- per month.

3. Petitioner no. 1 is a qualified Mufti, surviving on an amount received on imparting knowledge of religious scriptures to the students through private tuitions, whereas, petitioner no. 2 is a housewife.

4. Petitioner No.1 has saved some amount by dint of hard labour and petitioner no. 2 has arranged some amount in the form of loan from her

parents and parental relatives.

5. In order to save the amount of rent and to buy their own flat, petitioner no. 1 has entered into an Agreement of Sale and Purchase with one Mr. Shazad Alam. The total sale consideration of the aforesaid flat is Rs. 8 Lacs. Earnest amount of Rs.5 Lacs has been paid to the seller and remaining balance of Rs.3 Lacs is to be paid on or before 15.03.2013. Copy of the agreement is annexed herewith as Annexure-C.

6. Ld. Counsel appearing on behalf of the petitioners submitted that if the said amount is not released, then the poor petitioners will lose the earnest money of Rs.5 Lacs, which has already been paid to the seller.

7. I note, vide impugned award dated 16.07.2011, ld. Tribunal has directed that both the petitioners will be equally entitled to the award amount with proportionate interest. It was further directed that 50% of the award amount be released to the petitioner nos. 1 and 2 and remaining share shall be kept in the form of FDR for a period of five years with UCO Bank, Patiala House Court Branch, New Delhi.

8. In view of the averments made in the instant petition and submission of the ld. Counsel for the petitioners, Branch Manager, UCO Bank, Patiala House Courts, New Delhi is directed to release the entire amount in favour of the petitioners with interest accrued thereon on taking steps.

9. Instant petition stands disposed of on the above terms.

10. *Dasti*.

SURESH KAIT, J

FEBRUARY 19, 2013/*Jg/RS*